

**LEGISLATIVE SERVICES AGENCY  
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**FISCAL IMPACT STATEMENT**

**LS 6540**

**BILL NUMBER:** HB 1057

**NOTE PREPARED:** Dec 9, 2004

**BILL AMENDED:**

**SUBJECT:** Open Alcoholic Beverage Containers.

**FIRST AUTHOR:** Rep. Duncan

**FIRST SPONSOR:**

**BILL STATUS:** As Introduced

**FUNDS AFFECTED:** X GENERAL  
X DEDICATED  
X FEDERAL

**IMPACT:** State & Local

**Summary of Legislation:** The bill creates exceptions to the law concerning open alcoholic beverage containers in motor vehicles. The bill makes it a Class B infraction for a person in the passenger compartment of a motor vehicle to possess an alcoholic beverage container: (1) that has been opened; (2) that has a broken seal; or (3) from which some of the contents have been removed. It removes the requirement that, in proving a violation of the open container law, the state must show that the driver of the motor vehicle had a minimum level of alcohol in the driver's blood or breath. The bill also specifies that a violation of the open container law occurs while a motor vehicle is on the right-of-way of a public highway even if the vehicle is not in operation and that a violation of the open container law is not considered a moving traffic violation: (1) for purposes of the law concerning Bureau of Motor Vehicles operating records; and (2) for which points are assessed by the Bureau under the point system.

**Effective Date:** July 1, 2005.

**Explanation of State Expenditures:** *Penalty Provision:* Under current law, operating a motor vehicle with (1) blood alcohol content at or above a specified limit and (2) a container in the passenger compartment that has been opened, that has a broken seal, or from which some contents have been removed is a Class B infraction. On average, between CY 1999 and CY 2003, there were 396 citations a year for violation of the open container law.

Under this bill, the blood alcohol content condition would be removed, and the Class B infraction would apply to a person having an open container in a motor vehicle in operation on the right-of-way of a public highway. The bill provides certain exceptions for a person who is not the driver of certain types of vehicles and for a

vehicle that is not equipped with a trunk.

If additional court cases occur, revenue to the state General Fund may increase if infraction judgments and court fees are collected. The maximum judgment for a Class B infraction is \$1,000, which is deposited in the state General Fund. If court actions are filed and a judgment is entered, a court fee of \$70 would be assessed, 70% of which would be deposited in the state General Fund if the case is filed in a court of record or 55% if the case is filed in a city or town court.

*Effect on Federal Funding:* Assuming the language is accepted by the USDOT, this bill could eliminate the loss of federal monies that occurs because the state has not enacted and is not enforcing an open container law.

Since Indiana does not have acceptable language for open container laws by federal standards, federal monies that were originally available for roads and other transportation improvements now must be used for alcohol-related education activities, enforcing drunk driving laws by the law enforcement agencies in Indiana, or specific hazard-elimination activities by INDOT. In addition, because federal law allows only 90% of federal monies to be transferred from one account to another unrelated account, the state will lose an outright amount of money.

INDOT has not received funding for FFY 2005 and is operating under a continuing resolution based on FFY 2003 levels. In FFY 2004, Indiana received \$15.2 M which would be transferred from INDOT to the Governor's Council on Impaired and Dangerous Driving with an outright loss of \$1.52 M due to the 90% transfer limit.

**Explanation of Local Expenditures:**

**Explanation of Local Revenues:** *Penalty Provision:* If additional court actions are filed and a judgment is entered, local governments would receive revenue from the following sources: (1) The county general fund would receive 27% of the \$70 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. (2) A \$3 fee would be assessed and, if collected, would be deposited into the county law enforcement continuing education fund. (3) A \$2 jury fee is assessed and, if collected, would be deposited into the county user fee fund to supplement the compensation of jury members.

**State Agencies Affected:** Indiana Department of Transportation, Criminal Justice Institute.

**Local Agencies Affected:** Local Law Enforcement Agencies; Trial Courts.

**Information Sources:** Gary Eaton, Indiana Department of Transportation.

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